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7 Calypso Lane  
San Carlos, CA 94070  
pmiller@publicaffairsaccess.org

June 30, 2004

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Comment Requested on a la Carte and Themed Tier Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems (MB Docket No. 04-207).

Dear Secretary:

In studying “a la carte,” the FCC should consider how such regulation could undermine the citizen access to government, democracy and diverse opinion that is the foundation of our nation's strength by diminishing or eliminating the basic tier that carries local, state and C-SPAN public affairs access channels, among other media.

**Diversity of Media**

Citizen participation in government by access to public affairs channels and diverse media is more than self-expression; it is essence of self-government, and must be protected by government.

“A la carte” regulation could directly threaten community access to C-SPAN channels and state public affairs networks, such as the California Channel, which MVPDs now carry to many communities on basic tiers as a public service. Basic cable carriage of community Public, Educational and Governmental (PEG) channels, now mandated by law, must also be protected.

Congress and the FCC should protect the basic tier and encourage MVPDs to extend basic tiering into new distribution models such as video on-demand to ensure future access to government and diverse media.

In studying “a la carte,” the FCC should review the history of prior cable regulation’s impact on community access to government and public affairs. Following passage of the 1996 Telecommunications Act, 10 million households lost access to C-SPAN channels when cable companies, which opposed must-carry requirements, dropped C-SPAN in many communities to make space for the newly mandated carriage (1).

Citizen access to government lies at the heart democracy and is a fundamental right of Americans. American democracy was founded to ensure citizens’ unimpeded access to public affairs and opinion. That access, which our government historically encouraged, drove the success of the American experiment, as recent scholarship shows (2).

“A la carte” regulation could greatly diminish audiences and endanger the survival of existing public affairs networks. The broad range of commercially supported media carried on the basic tier creates the space for MVPDs voluntarily to carry C-SPAN channels and state public affairs networks. Public affairs access channels depend on basic tier exposure to attract viewers. Under “a la carte,” the principle of government access carried to all as a public service could be transformed into access for a select few willing to pay a premium for access. Even if a few of the largest public affairs channels might survive “a la carte” with reduced audiences, smaller networks could disappear.

“A la carte” also could create a major obstacle to launching much-needed new public affairs access channels in states and communities. Difficulty in gaining MVPD carriage consistently has been cited as the major obstacle to launching new public affairs channels (3).

Although access to government and public affairs programming is an essential public good and public affairs channels are heralded a national treasure, access is limited in most communities, and public affairs channels face threats. Currently, 14 million American households have no access to proceedings of the U.S. Senate on TV (4). Only a minority has access to state government on TV (5). Access is provided only part time on dual-use channels in many communities. Satellite broadcasters now carry C-SPAN and C-SPAN2, but do not carry community PEG channels or state public affairs networks.

Implementation of “a la carte” could greatly increase threats and obstacles to carriage of government and public affairs on TV. Instead of limiting citizens’ access to media by regulation, the FCC should encourage MVPDs to carry all local, state and federal public affairs, public service channels full time on the basic tier.

#### **Retransmission Consent**

The cable industry has cited Retransmission Consent rules as limiting MVPDs’ ability to carry public affairs access channels (6). Retransmission Consent may create an incentive to replace public space with commercial space.

#### **Set-Top Boxes**

Government regulation requiring citizens to purchase or lease a set-top box to gain access to government proceedings on TV may impose an undue burden on subscribers both as consumers and as citizens of a democracy.

By protecting broad carriage of local, state and C-SPAN public affairs access channels, Congress and the FCC can help to ensure continuation of the citizen access to public affairs that made America.

Sincerely,

Paul V. Miller

Cc: Representative Joe Barton  
Senator Barbara Boxer  
Senator Diane Feinstein  
Representative Tom Lantos  
Senator John McCain

Attachment: Notes

## Notes

- (1) U.S. Congress. Senate. Statement of Brian P. Lamb, Chairman and Chief Executive Officer of the C-SPAN Networks Before the Senate Committee on Commerce, Science, and Transportation. 105th Congress, 2nd Session, July 8, 1998.
- (2) Starr, Paul, *The Creation of the Media: Political Origins of Modern Communications* (Basic Books; 2004).
- (3) *A Look at Regional News Channels and State Public Affairs Networks* (Radio and Television News Directors' Association; 2004).
- (4) John P. Ourand, "C-SPAN Proves the Value of a Nickel," CableWorld March 8, 2004.
- (5) *A Look at Regional News Channels and State Public Affairs Networks* (Radio and Television News Directors' Association; 2004).
- (6) U.S. Congress. Senate. Statement of Brian P. Lamb, Chairman and Chief Executive Officer of the C-SPAN Networks Before the Senate Committee on Commerce, Science, and Transportation. 105th Congress, 2nd Session, July 8, 1998.